

REMARKS

Claims 1-151 are in the application.

The specification has been amended to correct grammatical informalities and to remove duplicated text.

Claims 1, 58 and 144 are amended, *inter alia*, to define that legal control over access to the record is restricted or afforded based on the trust agreement, access rules and the jurisdictional law of trusts. The remaining claims are amended, as necessary, to provide proper antecedent basis for the claim terms. Claims 145-150 are amended to depend from claim 144, directly or indirectly.

Applicant gratefully acknowledges the courtesy of the Examiner in accepting a proposed amendment which presented claims 1 and 58 essentially as proposed herein, and which were indicated by the Examiner as having address substantial issues in the case.

Claims 1, 58 and 144-151 are rejected under 35 U.S.C. § 103 as being obvious over Rusnak et al. (US 6,098,056). While the prior claims 1 and 58 were previously limited by the concept of a “trust”, this reference is believed to be definitively distinguished based on the affirmative recitation in claims 1, 58 and 144 of the elements of a trust subject to a jurisdictional law of trusts. Because of the prior status of claims 1 and 58, it is believed that no estoppel and loss of Doctrine of Equivalents under Festo is created. The remaining claims are believed to be similarly distinguished from the art on the basis of a recitation of a trust.

It is noted that a trust is created when a grantor transfers legal title to the corpus of the trust to the trustee. The grantor of that trust names a beneficiary (or class of beneficiaries) who holds equitable title. That beneficiary may be the same as or different from the grantor. The trustee may later enter into contracts (which are governed by the law of contracts) with third

parties. The third party in a contract with the trustee has no required direct relationship with the grantor or the beneficiary of a trust, which is believed to distinguish an escrow-type structure, in which a direct contractual relationship between the grantor/beneficiary and third party analogs is a predicate for establishment of the escrow, and relating to which arises any obligations of the escrow agent as intermediary.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven M. Hoffberg", written in a cursive style.

Steven M. Hoffberg
Reg. No. 33,511

MILDE & HOFFBERG, LLP
10 Bank Street - Suite 460
White Plains, NY 10606
(914) 949-3100